

*Summary Minutes*  
**Regular Sedona City Council Meeting**  
**City Council Chambers, 102 Roadrunner Drive, Sedona AZ**  
**Tuesday, January 12, 2010, 4:30 p.m.**

1. **Call to Order/Pledge of Allegiance:** Mayor Adams called the meeting to order at 4:30 p.m.

Councilor DiNunzio read the City's Vision Statement.

2. **Roll Call.**

**Members present:** Mayor Rob Adams, Vice Mayor Cliff Hamilton, Councilor Pud Colquitt, Councilor Mark DiNunzio, Councilor Jerry Frey, Councilor Nancy Scagnelli, and Councilor Dan Surber.

**Staff present:** City Manager Tim Ernster, Assistant City Manager Alison Zelms, Administrative Services Director Andi Welsh, City Attorney Mike Goimarac, Economic Planner Jodie Filardo, Community Development Director John O'Brien, Assistant Community Development Director Audree Juhlin, Development Services Supervisor & Senior Code Enforcement Officer Jim Windham, Development Services Representative Patty Lewis, City Engineer/Public Works Director Charles Mosley, Associate Planner Kathy Levin, Police Chief Joe Vernier, Interim Police Chief Jim Driscoll, Commander Ron Wheeler, Senior Information Referral Specialist Anne Leap, and Acting City Clerk Mary Gladieux.

3. **Summary of Current Events by Mayor/Council/City Manager.**

Tim Ernster stated there are plans to close a number of state parks in Arizona. It was reported this morning that there are discussions about closing Red Rock State Park. There's a State Parks meeting on Friday in Phoenix. Andi Welsh will attend that meeting. She spoke to staff at the State Parks Department today. It's not clear-cut. That's an issue on our front burner and we'll keep Council in the loop as we get more information.

Councilor Scagnelli stated she attended the opening of Grasshopper league and she wanted to thank Andi Welsh for that.

Keep Sedona Beautiful Candidate Forum is this Thursday at 5:30 p.m. at Pushmataha. The KSB headquarters on Brewer Road. Because of the city cutbacks, the advertising for the Mayor's Lunch will be eliminated. There will be a Mayor's Lunch this Tuesday at noon at Szechuan's. The Democrats of the Red Rocks candidate forum is Thursday, January 21, at 8:15 a.m. at the Olde Sedona Bar & Grill.

4. **Reports and discussion on Council assignments.**

Vice Mayor Hamilton stated the State department of Water Resources is looking at creating a commission that will be involved in looking at how to get more water into the state. It's still in the concept stage. The NAMWA group is involved in there. Our Water Advisory Committee met yesterday. A lot of water topics are similar to what we've heard for a long time, like the study involving our wastewater uses. He attended the Yavapai Intergovernmental meeting and it was

really interesting. He encourages other councilors to go to those as well. Verde Valley Land Preservation Institute met yesterday. It's looking at long range planning, looking toward Cottonwood. The annexation down there seems dormant. In late November the group had significant impact with information they brought to Cottonwood about their approach.

Councilor DiNunzio stated on December 9, he sat in on the Main Street Program. They're applying for some small grants to do some things of interest that connect Uptown to Tlaquepaque. He took the Mayor's place at the Coconino Plateau Water Advisory Council in Flagstaff. He sat through six presentations and took two pages of notes. Much of it is so global and futuristic on dealing with water issues that it was fascinating discussion. On January 11, he met with the Historic Preservation Commission that was lively and lengthy. There's a new member on the commission, Helen Snyder. They have a new slide show they're going to take out to the community.

Councilor Surber attended the Housing Commission on January 4, 2010. Cur dammar has been sold and will be in to discuss another proposal for that property. Verde Valley Housing Taskforce is pursuing a grant from the Department of Commerce. It was too quick to have any input from Sedona, but she went ahead and looked at that. We had originally committed some money for that survey but that's not part of this. Habitat for Humanity is looking at buying foreclosure units in different areas. That's feasible now because of the price. There was some discussion and may be approaching the Verde Valley Habitat for Humanity. The communication plan was on their agenda as well. They're going to be looking the Community Plan update and the housing element. At their February meeting they're going to have the Val Iverson the Executive Director from the Arizona Housing Alliance to give information on how to update the housing element in the Community Plan.

Tim Ernster stated there was a meeting last Friday in Cottonwood for the Greater Arizona Mayors' Association. There were ten cities there. The purpose was to review requested changes to bylaws and the resolution. Tim, Councilor DiNunzio and Mayor Adams went through the bylaws and resolution before the holidays and came up with a bunch of changes they requested. Most of those changes were incorporated into the new bylaws. The resolution Sedona submitted with changes is fine for other cities that want to join and adopt the resolution. There is another meeting scheduled three months out. There's support to continue with the effort. Most the cities weren't interested in a lot of formality with the group. None were interested in paying fees. The group agreed each city would contribute \$25 for postage and mailings to various cities. The group is gaining some momentum. There's the feeling it should stay informal as much as possible and not get too much involved in financial commitments.

Mayor Adams stated it's a great idea. Hopefully we can find common issues and agree to move forward with those. Northern Arizona cities need to be represented on water.

**5. Public Forum –for items not listed on the agenda—limit of three minutes per presentation. (Note that the Council may not discuss or make any decisions on any matter brought forward by a member of the public.)**

Eddie Maddock, Sedona, read the following statement:

*Standing before you this evening is not by choice but necessity. It's becoming extremely important for me to set the record straight that my concern about city government relates*

*exclusively to issues, policies, procedures and applications thereof. People involved with implementing the system constantly change, leaving me with no reason, interest, or purpose of participating for personal reasons.*

*A performance with impeccable credibility, high standards, reliable insofar as maintaining the story line to achieve the publicized theme of the production is far more meaningful to me than the cast of characters. Falling short of this does disservice to all parties involved and everyone thus becomes losers.*

Bob Huggins, Sedona, Volunteer Program Manager for the Sedona Volunteer Park Rangers. Every since we began the volunteer program, the Sedona Police Department has supported our efforts, provided us training, have included us in meetings and have worked shoulder to shoulder with us. He thanked the entire police department. He presented an award to Chief Joe Vernier in gratitude for his work with the Rangers.

Chief Joe Vernier stated he's much honored to be presented the award from the Volunteer Park Rangers. The neat thing about Sedona is that most of the best community policing comes from our citizens. This is a true example of a problem solving partnership. In the work you have done with us has fostered support to the police department. It's a win-win relationship. He's honored and humbled to receive the award.

## **6. Awards and Proclamations:**

Andi Welsh presented plaques to Parks and Recreation Commissioners Pat Crane and Bob Huggins, thanking them for their service. They are leaving the commission because their terms have expired. Pat was on the commission for the past couple years. He's worked to bring new ideas to the commission. He has contributed to the commission. Bob has spent many years on the commission, several terms. He created the Volunteer Park Ranger Program. He's been supportive as a program manager but also on the commission. He's been a great mentor to her in his professional career.

Mayor Adams presented the men their plaques. We are blessed to have all the volunteers we have in this city.

## **7. Consent Items:**

**The consent portion of the agenda is a means of expediting routine matters that must be acted on by the Council. All items approved will be done by one non-debatable motion passed unanimously. Any member of the Council, staff or public may remove any item for debate. Items removed from the consent portion may be acted upon before proceeding to the next agenda item.**

Councilor Jerry Frey pulled Item 7e from the consent agenda.

### **a. Approval of the following minutes:**

- 1) August 11, 2009 Regular Meeting
- 2) September 8, 2009 Regular Meeting
- 3) September 22, 2009 Regular Meeting
- 4) September 28, 2009 Joint Meeting with Parks & Recreation Commission

- 5) October 1, 2009 Joint Meeting with Arts & Culture Commission
- 6) October 5, 2009 Joint Meeting with Housing Commission
- 7) October 7, 2009 Special Meeting (first NSA)
- 8) October 13, 2009 Regular Meeting
- 9) October 15, 2009 Joint Meeting with Planning and Zoning Commission

**b. Approval of a letter applauding and encouraging Clarkdale's Sustainability Park Concept.**

**ISSUE: This agenda item is for approval of a letter of support regarding Clarkdale's Sustainability Park Concept.**

**c. Approval to appoint James Sears to the Historic Preservation Commission (HPC) to fill a vacancy expiring November 30, 2010.**

**ISSUE: Vice Mayor Cliff Hamilton, Councilor Nancy Scagnelli and HPC Chair Brynn Burkee Unger are recommending Council approval for the appointment of James Sears to fill a vacancy on the Historic Preservation Commission expiring November 30, 2010.**

**d. Approval to appoint Steve Muhl and Mary Leas to the Parks and Recreation Commission for two-year terms, ending December 31, 2011.**

**ISSUE: Mayor Rob Adams, Vice Mayor Cliff Hamilton, and Parks & Recreation Commission Chair Ned Isom are recommending Council approval for the appointment of Steve Muhl and Mary Leas to two-year terms on the Parks & Recreation Commission.**

***Motion: Councilor Scagnelli moved to approve the consent agenda items, with the exception of Item 7e. Councilor Colquitt seconded. Vote: Motion carried with seven (7) yes and zero (0) no.***

Mayor Adams stated James Sears and Steve Muhl and Mary Leas were appointed to commissions tonight so he wanted to acknowledge them.

**e. Approval of a public records request policy/procedure.**

**ISSUE: Staff is requesting Council approval of a new public records request policy to provide clarity for internal processes and for the public when requesting public documents.**

Councilor Frey stated he thought 10 cents a page and \$10 an hour was a little light on the public records fees and asked Tim Ernster for his opinion.

City Manager Tim Ernster said the current cost is ten cents per page, but we are recommending that go to twenty-five cents per page because that more closely reflects the actual cost the City incurs when we make copies. Initially the intent was to establish a formal process so we could provide consistent information to the public. Part of that was a review of what we currently charge.

City Attorney Mike Goimarac stated, under statute, we cannot charge for retrieving the records, but we can charge for compiling and collating costs. We looked at other jurisdictions and came to a reasonable charge of \$10 per hour. These charges are only if copies are made. Anyone has the right to review records for free and inspect them. Sometimes we get voluminous requests that take significant amounts of time.

Mayor Adams asked which jurisdictions were looked at and what was the average charge?

Mike stated we looked at Flagstaff, the counties, maybe some jurisdictions in the Valley. Other jurisdictions charge up to 50 cents a page, we felt 25 cents was more in the middle of the road.

Vice Mayor Hamilton stated it may be useful to Council to know that the information here pertains only to private individuals. There's a different approach when it comes to records sought for commercial purposes. What we're looking at here is strictly for private individuals.

Mike stated the statute for charging for commercial businesses says we can charge relative to what they'd charge in the open market for it.

***Motion: Councilor Frey moved to approve the public record policy procedure for the City of Sedona. Vice Mayor Hamilton seconded. Vote: Motion carried seven (7) yes and zero (0) no.***

**8. PUBLIC HEARING: Discussion/possible action on a resolution and ordinance regarding proposed amendments to the Sedona Land Development Code allowing for the long-term rental of accessory dwelling units amending Article 2 (Definitions), Article 6 (District Regulations), and Article 9 (Development Standards) and related amendments to the Sedona City Code amending Article 8 (Business Regulations) and Article 13 (Wastewater).**

John O'Brien stated we've been working for several years on the ADU ordinance. Both the Housing Commission and Planning & Zoning Commission have unanimously recommended approval of the ordinance before you tonight. We've developed five drafts of the ordinance in the past two years. It's been revised based on comments from the commissions, the public and staff. We've had over 60 public input opportunities. 250 individual citizens have participated through attendance at open meetings, public forums and focus groups. This is a thoroughly researched ordinance. We have researched communities throughout the country with similar ordinances. The one before you tonight is more restrictive than other communities we've investigated. The proposal requires the property owner to live on site at least six months of the year. The proposed ordinance would allow a maximum of 88 accessory dwelling units citywide. It would automatically expire when 88 ADUs are constructed or after five years, whichever comes first. The ordinance requires the Director of Community Development to provide an annual report to Council that would include number of ADU permits issued, their location, number of complaints received and any other enforcement action.

Linda Martinez, Chair of the Housing Commission, stated she'd liked to introduce members of the Housing Commission present tonight, Sandy Moriarti, Natalia McKendry, Jean Snider, Helen Snider and Karen Von Merveldt-Guevara. She stated her overview is in three parts: 1.) Why the Housing Commission brought this forward as a strategy; 2.) Who is interested in renting; 3.) Things to consider that we have learned from one of the country's experts on ADUs. To begin, one of the commission's tasks is to explore ideas that have been successful in other communities and this has been wildly successful because it has low impact and low cost to the city and is

spread among the community and not clustered. It's welcomed in the Community Plan, the added income can help with renovation. It can insure a variety of housing opportunities to all. Sedona has a higher than usual senior population, 25% above age 65. This is an opportunity for seniors to have options. It gives the City a tool. It's not as dependent on a developer completing their plans. We've lost over 40 more affordable units in Sedona, as property owners redevelop their own property. It gives owners of illegal unit the opportunity to come into compliance and safety codes. It supports sustainable principles to use existing land and structures. This ordinance has the cap of 88 new ones or 5 years to re-evaluate. It's been researched since 2004, and it has unanimous support of P&Z and the Housing Commission.

Secondly, she stated the people interested in renting would be the people who cash your checks, cut your hair, deliver your mail, welcome your out of town guests, help you in retail stores, people in uniform who protect us, those who schedule our appointments, our older family members, contractors, your child's teacher, artists. Because people who live here get involved in the community because they drive shorter distances will get involved in our businesses, support our stores, banks, churches, our arts community, they'll protect our environment, reduce our traffic and support our air quality.

Part three, she stated a few things to consider, and we spoke with Art Sullivan, the project manager of A Regional Coalition of Housing [ARCH], in Washington. There are over 500 ADUs in the ARCH area. Two hundred (200) of those are on Mercer Island and they'd like to have at least 100 more. It's been very successful. Sedona's is one of the most detailed and most restrictive ordinances. Most are one to two pages. Some priorities for other communities are that the units are owner occupied, as we have, and they were concerned about parking, we've addressed that. They were concerned about aesthetics, we've addressed that too. According to Art Sullivan, he said there are two things that will kill it. Require the owner to go through a public hearing process and controlled rents, and we didn't recommend either of those.

Audree Juhlin stated the need for affordable housing was identified during the preparation of the Community Plan in 1990. In 1998 the housing element was included in the Community Plan update. During the 2001-2 update, many recognized that affordable housing was needed in Sedona and the City hasn't been proactive enough in making housing affordable. In 2003 the City Council established a Housing Commission, charged to research and recommend strategies to create, preserve and maintain diverse housing options. Allowing for the rental of ADUs is one approach that works well in similar communities across the country. The Community Plan includes language that supports the concept. After much review and community input, staff feels the proposal is well thought out and balances the needs of affordable housing as well as the concerns of the community. Generally, ADUs are independent units, created within, attached to, or detached from a single family home. An ADU can provide supplementary housing that can be integrated into single family neighborhoods to provide a lower priced housing alternative. ADUs can provide homeowners rental income, companionship, and/or services. Typically they're smaller than size, similar in appearance. They're a permitted use in single family home districts, however HOAs may prohibit ADUs. ADUs usually provide a complete independent residential unit and contain provisions for sleeping, eating, living, cooking and sanitation. The proposal before you addresses occupancy, size, height, appearance, location, parking, enforcement, permitting process, existing illegal ADUs. It's been refined through public, staff and commission input. The City has received a wide range of input. Many citizens were concerned that the 2008 draft was not restrictive enough. Some were concerned with decreased property values, parking, increased crime, noise. Based on those concerns staff submitted a more restrictive draft in spring

2009. We did another public outreach effort. The revised 2009 draft received more overall support than the 2008 draft. New concerns were addressed regarding the draft's restrictiveness. Many suggested that the 2009 draft didn't fit the needs of ADUs because of the high fees and restrictive nature. The draft was once again revised. Both P&Z and Housing Commission reviewed the draft and made significant changes. The proposal defines an ADU as a secondary unit located on the same parcel as the single family home. The ADU must provide a complete, independent residential living space, including provisions for sleeping, cooking, living and sanitation. The proposal provides purpose for the ordinance. It allows ADUs to be permitted in all single family home districts, however, the proposal includes a sunset clause limiting all new ADUs to 88 or five years, whichever comes first, and then it'd need to be reviewed by P&Z before it can continue. An ADU can be created within in, attached or detached from the single family home. The property owner must occupy the single family home or the ADU for at least six months of the year and they must sign an affidavit verifying this is their full-time legal residence. The proposal prohibits ADUs from being rented for less than 90 days and prohibits them from being rented at short-term rentals or as bed and breakfast purposes. The proposal restricts the total number of people on the lot including the primary single family unit and the ADU to no more than is currently allowed for the primary single family unit. No more than four unrelated adults can live on that lot or an unlimited amount of family members. The proposal provides for development standards that restrict the size of ADUs, allow only one ADU per lot, they must meet height requirements, lot coverage and setback standards. ADUs must meet all technical code standards. They must be designed so the appearance is similar to the existing unit. They must be architecturally compatible. They cannot have more than two bedrooms. They must include a parking plan. She showed an example of what we could hypothetically do on a lot.

John O'Brien stated the lots are under a half acre, and showed what would currently be allowed under the Land Development Code. In this zoning district there's a 35% lot coverage maximum, so over 6,000 square feet could be developed on this site. He showed a site with the proposed ADU ordinance. He stated you really don't see a lot of difference and that's really the point. It's the same property, the primary residence is the same size, and the ADU can only be a maximum of 1,800 square feet, so it's more restrictive than a guest house. ADUs cannot exceed 1,800 square feet, and that's with a home that's over 1,500 square feet. Homes that are less than 1,500 square feet, the maximum ADU is 500 square feet. It has to meet the same building heights, setbacks. No more than four unrelated adults can reside on the entire property including the ADU.

Audree Juhlin stated the proposal establishes fees for ADUs. An ADU would be subject to all building permit and inspection fees. ADUs would be assessed a sewer capacity one-half of an ARU. The recommendation is made because although the number of people allowed wouldn't increase, but an ADU may increase the amount of water used from an additional washing machine or dishwasher. Development Impact Fees would not be applied. This recommendation is made because the use of the land does not change. All requirements stay the same. The proposal provides a grace period of 12 months for existing illegal ADUs to come forward and apply for an ADU permit. As an incentive the building fees and inspection fees would be waived at this time. Property owners who submit an application during the grace period wouldn't be subject to applicable fines or enforcement actions. In their motion, P&Z recommends that the City enact strict enforcement actions on property owners of illegal ADUs who don't come forward during the 12-month grace period. The proposal requires an annual report from the Community Development Director to Council. The report will include the number of ADU applications received, the number of permits issues, location of ADUs, number of complaints, enforcement action. P&Z also recommended that community development send out an annual survey to all

properties with ADUs and staff agreed with this recommendation. ADUs are subject to any and all enforcement requirements. These enforcement ordinances are comprehensive. They are currently in place to enforce all zoning and code related issues. By requiring the property owner to live on site you have the strongest enforcement possible. It's highly unlikely the property owner wouldn't be interested in maintaining their residential character of the neighborhood and property values. Currently the city has two code enforcement staff members. We focus primarily on responding to complaints about possible code violations. Code enforcement practices can be proactive. For example, we're currently proactively enforcing short-term vacation rentals, signage and lighting. When a complaint is received the code enforcers will schedule an appointment for inspection. Code enforcements experience has been that many owners aren't familiar with our codes. Once they've been educated a majority comply with the regulations. A follow-up inspection is held to make sure the property is in compliance with the codes. If an owner fails to correct a violation a formal notice of violation is issued giving the owners a specific amount of time to correct. If still outstanding a civil violation may be issued requiring the homeowner to appear before the judge. Code enforcement is authorized to file formal charges to the city's prosecutor's office and the city has done so. Code enforcement staff must adhere to legal limitations and Constitutional ruling governing the search of private property. We can't just knock on someone's door without a legitimate basis to do so. In the past two years we've received 15 complaints regarding possible illegal rentals of guest homes. All have been investigated and closed. All that were found out of compliance were brought into compliance on voluntary measures. Both Housing Commission and P&Z unanimously support the proposal before you. The public has actively participated in the creation of this ordinance. This draft has been reworked several times with consideration given to input from citizens and business owners.

Mayor Adams stated it was a tremendous presentation which was very thorough.

*Mayor Adams opened it to the public.*

Carol Wirkus, Sedona, stated let's call an apple, an apple. ADUs are really apartments that are created on single family homes sites. She'd like to ask each Councilor if they'd like to have their next door neighbor create an apartment next to their house and she guesses their answer is "no." Even if you don't recognize the negative impacts, please consider the zoning issues involved. Single family zoning means one dwelling per lot. If you create an ADU, you create multiple dwelling units, and our land development code tells you that's not single family any more. This does change the character of a neighborhood and not for the better. There's only the limit of four unrelated adults, each with their own families. There's not even an annual fee to cover the cost of managing ADUs. The plan isn't to count any existing ADUs, whether or not they're legal. That doesn't make any sense. They will only impact neighborhoods that don't have current CC&Rs. She urges them to vote against this proposal that would allow apartments in our single family neighborhoods.

Marjorie Allen Johnson, Sedona, stated her CC&Rs expired years ago because of non-use. She's the widow of Cast Johnson, who a number of you know. She's been a very active member of the community. She's very much in favor of ADUs. Her cousin is an architect who lives on Mercer Island and he said they're great. We will build desirable additions to our property. It is a desirable addition that can be used in many ways, for family members who can no longer live alone, or for caretakers. There are many people working here who can't afford to live here. She has enough space on her property to provide more than two additional parking spaces and she feels the presence of the owner will deter trashy upkeep or noise.



Laura Schuurman, Sedona, stated she's representing the type of person that would move into an ADU. She moved here in 2006 from Iowa. She moved from a two-bedroom apartment in Cottonwood for \$300/month to a two-bedroom apartment in Cottonwood for \$700/month. She would like to live in Sedona. She works at Sedona Charter School. Coming right out of college you have student loans, and as a teacher you don't make very much. She started at \$28,000 before taxes. If these ADUs are passed, this would be an option for young professionals who are just starting out to stay in Sedona.

Mary Piotrowski, Sedona, stated she's the priest at St. Andrew's Episcopal Church. She has a primary residence in Flagstaff and she owns a condo in Sedona with her brothers and sisters. She wouldn't be able to have a condo in Sedona otherwise. She was impressed with the reading of the vision statement. She's impressed by the responsiveness of the Housing Commission and the effort of trying to craft a proposal that protected as well as enhanced the community. The proposal allows Sedona to offer attractive housing units in a way that doesn't alter the character of the town, so she's speaking in favor.

Mayor Adams asked the clerk to explain the purpose of the light. Mary stated there's a green light and when it gets down to thirty seconds the yellow light will start to flash.

Lisa Hirsch, Sedona, she's a parent of two school children and she has insight into attracting a great workforce for teaching our students, to recruit and maintain a teacher. It costs the school district money every time we have teacher turnover. In the past three years, every time we have teacher turn over 99% is the inability of being able to afford to live here. The teachers that live within Sedona limits that are closer to their schools are able to spend more time not only in their profession, but in working with out youth afterschool. She knows Council is well-educated and understands the value of having well-educated teachers who do not have to drive an hour and a half each way to work. She doesn't see it as something that will destroy the living that we're privileged to have.

Shandra Ryan, Sedona, stated she was a native born Sedonan. When her parents were pregnant with her they lived in a little rental on someone's property. As she grew up in Southern California, she was exposed to crime and over population. Now she's raising her children in Sedona. When they first moved here she rented a trailer in a trailer park, but there were drunken fights in the parking lot and a peeping tom in her window so she moved to a condo in the Village of Oak Creek. About eight months into that the owner decided to sell so she was forced to move. Now she's in Nepenthe but the owner is forced to sell again. For her, an ADU would give her family a place to stay for a longer period of time.

Linda Rachel, Sedona, stated she no longer lives in Sedona. She moved here in 1993, and sold her home four years ago. She still owns a business here. She's also speaking on behalf of someone who asked not to be named. She states that there are several neighbors and friends who have ADUs. She rents hers to people who are unable to live here unless they rent this sort of unit. She rents out her unit for \$400/month. Many of her neighbors who also do similarly, would no longer be able to keep their homes without the additional income. Linda stated in 1993 she purchased a home with a mother-in-law unit for her mother-in-law. When she passed away we had people knocking on our door. We gave it a shot. We had no short-term renters. Our longest term renter was 8 years. They are now business owners in this community. The reason they were able to do that because when they were getting started they were able to live here and develop their

business. They were like family members. She raised a family here. When they grew up, they couldn't afford to live here. They've moved outside our community. This is your opportunity to have control over the development of your community.

Bettye Monzo, Sedona, stated she's been watching the quest for ADUs since 2005. She wonders why existing ADUs haven't been identified and counted. We're told they don't have the time and staff. Will the City have time and staff to enforce the new ADUs. We're told the primary enforcement will be the homeowner, however they can be absent for six months. There have been 15 complaints in two years. If it's the homeowner watching themselves we have no insurance they won't be abused. There is nothing to say the renter must work in Sedona and no language that says they have to be affordable. Why are the illegal ADUs that come forward not going to be charged a sewer fee? In closing, she's in favor of the ADUs, but she does not think we're ready at this point. She'd like to ask Council not to approve tonight.

Jolene Pierson, Sedona, she's here to urge Council to adopt the ordinance. It's smart and sensible because it increases available housing units with reasonable rent. It decreases urban sprawl. It uses existing streets and utilities. These units would be within the existing areas of patrol for police and fire. It's fiscally sound. It's ecologically sound. It reduces the footprints and encroachment on unspoiled wildlife areas. There will be no absentee landlords. The design is harmonious with the existing residents and provides for off-street parking. It's smart and sensible for neighborhoods because the neighborhood and the residing homeowner will be monitoring the upkeep and the behavior of the tenants. It's modeled on similar ordinances from other communities that have been successful. The Housing Commission and P&Z have brought you a smart and sensible ordinance. Show the citizens that the Council is smart and sensible. Pass the ADU ordinance.

Jean Jenks, Sedona, stated the ADU ordinance is unenforceable. To this day they tell you the number of occupants will be limited, which they can't control. Why isn't a major Community Plan amendment required? By adding an ADU that can be rented, the proposal brings commercialization and an increase in dwellings to areas without strong CC&Rs. Doubling the density violates the current Community Plan. Since single family residential categories can become commercial under the ADU there is a need for a new category name such as non single family residential. She hopes the proposal will be returned to the housing commission for correction and proper disclosure. There are a lot of things people don't know about, like taxes.

Blue Boelter, Sedona, stated she's a professional residential designer here. She drew most of the construction plans for City Hall. She can't pretend to know the entire Community Plan by heart, but she's checked the proposed ordinance against the Community Plan in detail. She continues to hear erroneous statements by opponents of the ordinance such as neighborhoods that don't have CC&Rs are at risk of being taken over by ADUs. That's just not true. There are many different kinds of CC&Rs that all differ. There's one subdivision that won't allow guest houses. All the other subdivisions allow guest houses and she knows many guest houses that would make beautiful dwellings. She knows of existing illegal ADUs but they're going on without problems and with positive benefits. The other thing that was erroneous as the fear of there being over 12 units per acre. The smallest size lots that are allowed are 6,000 square feet. They require 40% maximum lot coverage, plus they're controlled by a limit of a maximum of six units per acre. Please be careful of who you listen to.

Ron Martinez, Sedona, the president of Schrader & Martinez construction. He's the deacon at St. John Vianney Catholic Church. He's been married to the Housing Commission Chairwoman for 35 years, but that doesn't mean they'll agree on anything. Seven years ago he was part of the housing study to look at housing issues in Sedona. One thing that came out of that study was the importance of having our workers living in the community. He wants to commend everyone who worked on the ordinance. It's addressed so many concerns. He has a perspective project manager coming into town. He text messaged me today asking where he can get long-term rental and secondly, can Ron recommend a realtor in Cottonwood or Cornville. He hears, as a deacon at St. John Vianney, the struggle to be able to find long-term affordable housing. He thinks the ADU ordinance is a vehicle to fill that need. He encourages supporting the ADU ordinance.

George Ault, Village of Oak Creek, minister of the Red Rocks of Sedona, stated he was also one of the founders of Verde Valley Interfaith Council and Verde Valley Caregivers, but he isn't speaking for any of those. If an elderly person owns an ADU and is able to rent it out, it provides a sense of security and comfort on the premises as well as a supplemental income. If an elderly person wants to down-size an ADU is a place to live in a familiar community.

Bobbie Surber, Sedona, speaking on behalf of herself and president of the Sedona Oak Creek School District. Our district has done a great job of recruiting highly competent teachers, but struggle with retention. Our housing costs are too high. Our pay for beginning teachers remains low because we're a small school district. Our community benefits when those who serve our community live in our community. Help them get a foothold in Sedona and remain in Sedona. Chances are overwhelming you already live in a neighborhood with an illegal ADU. Many have no interest turning in an ADU resident currently because it hasn't been an issue for them. She'd like you to remember her mom. She's an elderly, vibrant, involved resident, spending a lot of time running the Sedona clothing bank. She'd benefit from the peace of mind of having the additional income and peace of mind of having someone around to help her with little things that she's not able to do anymore.

Paul Chevalier, Sedona, stated this is an emotionally charged issue. There are really good issues to put in ADUs, there are people scared that if they have HOAs prohibiting it their rights won't be protected. He's proposing two simple amendment proposals. He handed the Councilors his changes. The first, he stated, is to add language that will require the City to use due diligence to insure the ADU won't violate the CC&Rs. Finding out if the location is part of an HOA, then reviewing their CC&Rs to see if the ADU would violate them. It shows the members of the HOAs that the government respects their legal rights. The second proposal is to add language to require all ADU owners to submit a signed and completed rental form to the City Clerk of the people who occupy the ADU and the duration of their rental agreement. This could discourage ADU owners from violating the law and is not a burdensome obligation for the City. He urges Council to look at these changes.

Lee M. Clegg, Sedona, stated he sees a lot of red on that map. That red represents HOAs governed by CC&Rs. From the CC&Rs he's seen, he doesn't think there has to be an amendment. Most of the place ADUs would be going is in the blue areas and those are the areas where the residents would most need the extra income and the most care. More than likely you'll get just 60 ADUs. They're going to be small, not eyesores. He's positive about the need and the benefits to come to Sedona from ADUs.

Nick Chanaler, Sedona, stated this proposed ordinance places Sedona on an opposite path than he envisioned when he moved here 25 years ago. He's not familiar with the law, it seems if Council enacts this ordinance it would allow an increase of density which would decrease the value of residential homes. Since the loss of value would be the cause of the city it appears to be a taking. Is it? A taking is when the government acquires private property and fails to compensate an owner fairly. A taking can occur without an actual seizing of the property, such as when the government regulation has substantially reduced the value of the property. He has a strong feeling we are doing things to people without their permission and hurting them financially.

Susan Vitek, Sedona, stated she lives in a subdivision that has a covenant against ADUs. Does she want our teachers, our nurses, our healthcare workers to live in Sedona? Of course she does, so consider her surprise when she attended the meetings and there were no lists of people who would be in this housing. So why not say this housing would go to such people as nurses and teachers? She doesn't think this plan will work as it is. If she had it her way starting teachers would start at no less than \$75,000 per year. She values them. She wants them here. Susan stated she's against the ordinance.

Madak Kadam, Sedona, stated he's an artist and a general contractor. When he heard the first speaker talk about apartment buildings going up in his neighborhood he doesn't like it, but is it real? He has a house with a guest house which he'd like to rent out. It's half an acre, it has 40 trees, and it's very beautiful. He wishes all his neighbors would have an ADU because of an issue of crime. Every second or third house in his neighborhood is owned by someone out of state. They give it to a rental company that puts four unrelated adults in it, they bring their friends, and they park in front. When he gets old, he'd like to move into the smaller dwelling and stay in the neighborhood.

Sherry Gordon, Sedona, stated we built a beautiful guest house on half an acre for her mother to move in. She never moved in but we created a beautiful space. We'd love to be able to rent it out so she's definitely in favor of the ordinance.

Chip Putman, Sedona, stated he's in favor of this for selfish reasons. His mom lives in Connecticut. We'd love for her to come here for the winters and really get to know her grandchildren better. We'd love for her to be here and give them that sense of extended family that he grew up with. There's the issue of if mom moves here would it ruin the character of the neighborhood. He thinks that's too strong. She's a sweet old lady and he doesn't think she'd ruin the character of the neighborhood. He hopes they support this.

Kathy Howe, Sedona, stated one of her clients is a school teacher and they've been working together for one year. We found a short sale for her and she can afford it. On Friday we finally got a negotiator from Bank of America. Many of us are working hard to keep our service workers. Please pass this tonight.

Ron Volkman, Bill Grey Road, stated he's here on assignment from the Board of Directors from the Sedona/Verde Valley Association of Realtors, 625 members. Our board urges the adoption of the ADU ordinance. This is likely to be the most effective and economic strategy for affordable housing. This ordinance has a lot of conservative aspects. The density ratios of an ADU are less than what exists now. You're able to give a benefit to the community without developing new land. Even when you have development on multi-family zoned property it doesn't turn out to be affordable. Realtors see the guest homes that are being rented all the time. They're not run down.

They're the best kept because people want to keep them rented. Please no rent control. Don't put the City in the business of property management. The free market works. We hope you adopt it.

Lori Jackson, Cottonwood, stated she's the human resources director at the Verde Valley Medical Center. We employ more than 800 of people. As the populations increases, the demand for health care professionals does as well. The Medical Center competes nationally for the best and the brightest staff. Hiring and retaining workers when there's a scarcity of housing options impacts all community services. The ADU ordinance is a positive way to provide affordable housing. She was born in Sedona and she thinks this is the right thing to do.

Jennifer Wesselhoff, Sedona, President and CEO of Sedona Chamber of Commerce. The Chamber conducted a survey with the help of the City. Almost 200 businesses responded which is an overwhelming response and that shows the level of interest in workforce housing. 86% of respondents worked in Sedona. Of those who lived outside of Sedona, 81% said they don't live in Sedona because of the cost of availability of housing. 45% agreed that a 350-850 square foot ADU would accommodate them but almost 50% of them would prefer a two bedroom dwelling unit. Over 50% said that as an employer their employees would be interested in renting an ADU. Of those employers, 55% said 1 in 10 of employees would be interested. 50% also said they'd be interested in providing an ADU on their property. Many residents have lost their jobs or have diminishing incomes. Many can only afford to live here because they rent out a room. The key to this ordinance is to insure that density does not increase. When people live here they support our economy, they shop, they eat at our restaurants, they support our nonprofits and they volunteer. Our community is enriched. Some people complain that Sedona lacks community character, in many cases that's because the people who work here don't live here. This is one way the city can help our workforce. This ADU ordinance alone won't help all our affordable housing issues but it will help.

*Mayor Adams closed the public session.*

**Mayor Adams called a recess at 6:38 p.m.**

**Council reconvened at 6:51 p.m.**

Councilor Colquitt asked City Attorney Mike Goimarac to explain the city's role with CC&Rs and homeowner's associations.

Mike stated CC&Rs are essentially contractual agreements entered into between homeowners and subdivisions. The City doesn't have any legal standing to enforce a private contract between mutual property owners. The suggestion for the city to review all CC&Rs and make a suggestion on whether an ADU is allowed. It's a hodge podge of agreements. We're talking a voluminous number of documents if you wanted to impose that kind of regulation. He's not aware of any city that has done that. It'd take a lot of staff time and then there's the issue of whether there's a difference in interpretation. If we impair someone's ability to develop their property that would create legal concerns for the City. There are a lot of things the city staff can do proactively. When someone comes for a building permit for an ADU, they can make them sign that they understand what's required and the consequences. There are a lot of things that can be done to insure that people comply with that law. That would include acknowledgement that the city let's the applicant know it's their duty to check they're in compliance with their CC&Rs. It's not up to the city to check that.

Councilor Colquitt asked if the City enforces CC&Rs. Mike stated we never have. We don't have any standing to enforce those.

John O'Brien stated they always ask applicants if they've checked with their HOA to make sure your residence is in compliance with those restrictions. We've done that for many years and we'll continue to do that.

Councilor Colquitt stated how do CC&Rs go away? She lives in a 35-year old house, her CC&Rs are 40 years old. Mike stated they don't go away with time, but they may be challenged if they're continually not enforced. There are issues that make it difficult for the City to come up with interpretations of what CC&Rs.

Councilor Colquitt asked if the City had any power in determining what type of tenant can rent the ADUs. Mike stated we abide by the Fair Housing Act. We wouldn't want to discriminate or aid in discrimination based on community status, national origin. We wouldn't want to pass an ordinance.

Councilor Colquitt asked if there's anything that trumps the CC&Rs. Mike stated they're private contractual agreements between property owners. The City shouldn't try to pass anything that would try to trump how CC&Rs are applied.

Councilor Frey stated if there was a submittal of a rental agreement to the City, wouldn't that be public document? Mike stated yes. Councilor Frey stated there's a state law that requires a tenant fill out a rental agreement. He asked if there were 60 public meetings. Linda Martinez stated yes. Councilor Frey stated he's an RV Park owner. But there have been two trailer parks that have been rezoned. Is that in any of your 40 unit numbers that you said you lost? Linda stated some were in that figure. Councilor Frey stated there are 48 units at Hawk Eye.

Vice Mayor Hamilton asked why this doesn't require a Community Plan amendment. Mike Raber stated our Community Plan recommends we limit future residential growth and that's at the densities that were established when the City was incorporated. Staff monitors that projected build out on an annual basis so we can see how a proposal might impact. Since 1999 the number of approved housing units citywide has been less than the net number of the units allowed by zoning. With a cap on ADU units the impact is less than 1%. It's also likely to be less than projected. We don't see any issue on number of units allowed.

Vice Mayor Hamilton stated he understands that number wise but what about how it affects neighborhoods. Mike stated there are three criteria. 1.) Does it change density ranges in the plan? 2.) Is the future land use map being changed? 3.) Is there any inconsistency with the land use policy. That was the main thing we looked at because that was an issue if you didn't have that cap. But there is no change with the residential density designations.

John O'Brien stated our highest density zoning district is RS6. Our maximum Community Plan amendment is 12 units per acre. If every lot in the Coffee Pot subdivision would do an ADU, which is highly unlikely, it would still fit in the code.

Vice Mayor Hamilton stated one of the issues raised was whether the City had the ability to designate four adults to live in one property in terms of the Fair Housing Act. John stated we're not changing our current code, its four unrelated adults or an unlimited number of related people.

Vice Mayor Hamilton asked is there any issue that might come back to bite us as far as the ADU process? John stated our regulations are consistent with Fair Housing.

Vice Mayor Hamilton stated he's concerned about the amnesty period and the number of illegal units. What about delaying the implementation of construction, create the amnesty period so we could find out better what's out there and know exactly what the number of people are that are likely to come in, so we have that in hand before we start the building process.

John O'Brien asked what that would address. Vice Mayor Hamilton stated if we offered an amnesty before we started building so we got a measure of what's out there illegally so we know what those numbers are before we start building. We have an enforcement problem we know we don't have enough staff to do this.

John stated if they are illegal, they already exist and already there so he's not sure what that delay would really address. The illegals are out there and are there. Vice Mayor Hamilton stated if that's our attitude, why don't we abandon the whole amnesty thing. John stated that's not his point. The amnesty period is to make sure those existing units are meeting certain safety standards. He's not not concerned about the illegals. He doesn't know what it'd address to delay the code for a year for new construction.

Vice Mayor Hamilton stated it's about finding out what's out there before we start looking at adding new ones. John stated when people construct guest houses they have to sign an agreement that they won't rent the unit illegally. We could investigate those we've received and get out and investigate those. Vice mayor Hamilton stated if we open the amnesty period to see what we get and understand what those numbers are likely to be. The 88 number was plucked out of the air as we talked about yesterday. If we found out what was out there before we started building.

Linda Martinez stated one thing she heard through the grapevine is that they're terrified to come forward. To extend that amnesty would be nice. They probably won't come forward, but she'd like to propose that possibly a nonprofit might host a couple session under a neutral turf where they might come forward so the City can gain some information. That could be very valuable and that could be done concurrently time wise as soon as we're approved.

Mayor Adams asked each Councilor not to ask more than three questions.

Councilor DiNunzio stated he has two questions. The existing illegal units aren't part of the 88 correct? John stated that's correct.

Councilor DiNunzio asked what is the City's regard to a unit that's 1,200 square feet and wants to become legal? John stated that's up to the director's discretion, up to 25% variance of the standard, is up to the director.

Councilor Surber stated on P&Z they talked about providing a form where we can keep track of rentals. Do you think some of the information like who it's being rented to?

Audree stated she has samples from other communities: how long have they been in the unit? Is it for exchange of service? Is it a family member? All the communities she looked at there are very few that do this type of provision. None of them ask for personal information. You could get an idea of how many people live there.

Councilor Surber asked if there are any affordable incentives? Linda Martinez stated we'll encourage an exchange of services instead of rent. Secondly, it's come up, if it were Council's direction to investigate if there's benefit in rent control.

Councilor Scagnelli asked how many complaints have we had? Audree stated in the past two years we've had 15. Each case has been investigated and closed. Either no violation was found or owner brought their property into compliance with our codes. We don't have any outstanding complaints currently.

John O'Brien responded to Councilor Scagnelli's question that you can rent a room from your home. She replied so you have the cars and that sort of thing already unless CC&Rs prohibit it.

Councilor Scagnelli asked what it means to waive building permit fees for those who come into compliance. John stated there may be some interior work that needs to be done. The fees wouldn't be tremendous. Audree Juhlin stated there'd also be the consideration of welfare and safety. We'll look at plumbing, fire hazards. It'd be a permit application submitted even for an existing unit.

Councilor Scagnelli stated there may be cost associated with bringing them into compliance so there's probably a fear to come forward.

John stated the amnesty program in other communities isn't very successful. Audree stated she hasn't found a community yet that has a successful amnesty period.

Councilor Scagnelli asked Linda if she was talking about helping people bring their existing ones to code. Linda stated if it's legal and if Council supports it.

Councilor Scagnelli stated this is a good way to address affordable housing. It's low density. It might be something to look at using some of that in lieu fees to help them come into compliance.

John O'Brien stated if someone comes in within their amnesty period, it wouldn't count toward the 88 ADUs. After that period, if we find out someone is operating an ADU illegally, after the amnesty period that would count toward the 88 ADUs.

Mayor Adams asked John to address Paul Chevalier's recommendations. John stated Mike Goimarac addressed having the City evaluate all CC&Rs. We don't want to go there. Mayor Adams asked if we could get a letter from HOA saying they have no violations. John stated that's fine. If the HOA is operational, there may be a time limit.

Mike stated there are subdivisions that don't have HOAs. That's problematic. The more we interject ourselves into requiring the CC&Rs to approve condition for an ADU permit, the more we expose ourselves. He personally feels like we never got into the CC&R enforcement business and it would be problematic to do so now.



Mayor Adams asked if he wanted to address the second part of that. John stated he doesn't have a problem with that. We are going to have them sign a condition of approval attached to each ADU permit we issue. This could be another requirement. Audree stated we could make it part of an annual survey.

Mike stated if you were a renter would you want anyone to be able to make a public request to look at your rental agreement. That's one issue. They're only required to rent for 90 days. Are we going to require them to give us a copy every time they renew it? If the owner of the property lives on the property that will insure good renters since he has to live there too.

John O'Brien stated those who rent their homes currently don't need to go through this process.

Mayor Adams asked what the guidelines are for ADUs. They'd be allowed to pay half the capacity fee but what about ADUs that are going into areas on septic. John stated they'd have to get written approval from the county that says that their septic system is sized adequately to handle additional capacity.

Councilor Frey asked what we'll do with the legal non-conforming units that are legitimately grandfathered in? John stated those are legal non-conforming and those will continue. Those are legitimate. They've been established before we became a City.

Councilor Frey asked how they came up with charging half the sewer fee? John stated there will be additional wastewater going to the plant because of additional dishwashers, launders, it won't be as much as a house so we decided half.

Mayor Adams stated the 15 violations in 2 years was mostly short term rentals right? Audree stated those were guest homes being rented illegally not short term rentals.

Jim Windham stated of those 15 those were predominately people who had bootlegged kitchens, garage conversions. The vacation rentals are a whole separate category that we deal with separately.

Mayor Adams stated regarding "timely manner" on page 18, under enforcement 9-18 paragraph b. It says if a property owner doesn't act in a timely manner the permit will be evoked. What is a timely manner? John stated it's a judgment call like it is now. Each situation is unique. A timely manner is 30-60 days of clearing it up. If it's a detached unit they'd have to remove the kitchen. If it's attached they'd have to remove the kitchen, so in either case.

Councilor Colquitt stated she's been part of this discussion since 2004. She complimented the Housing Commission. There were times she's sure they thought they wouldn't get anything. She compliments getting a unanimous vote from P&Z. They've done a wonderful job. She supports ADUs. She doesn't want the City to become too intrusive. How much does the public need to know as long as neighbors are not upset. She's not in favor of getting too intrusive when it comes to who you rent the ADU to. There is something that will trump all this and it's called a group home. We won't go into that because the City has learned the hard way about those. She's voting 100% in favor of it as it's written. She has a grandfathered guest house but it's already promised. John O'Brien is going to become her house boy when she gets real old and he's going to be driving "Miss Pud." It's been a longstanding joke. She knows how difficult it's been, staff did a great time. This has been a positive session.

Councilor Frey stated we offer equal opportunity to all. It's been more than three years, so thank you.

Vice Mayor Hamilton stated he can't remember struggling with a topic any more than this one. ADUs can work here and be successful and help our housing issues here. We're not quite there yet. He'd like to see the rest of our homework done. We're struggling with enforcement. Looking at ways to make enforcement happen. We've got the rules in place but we don't have a way to make those rules happen. It's been well researched and put together but we don't have the staff to make it happen. He's a big believer in volunteer programs. He wonders if there's way to explore that sort of thing. Not to be intrusive but through everything to surveying internet sites for rental ads and that sort of thing to help us put some real teeth in this. We think we have a bunch of illegal units out there that we don't think will come in. Then the ability to tell illegal from legal becomes impossible for neighbors. If you have an illegal unit or you have an ADU that you start renting illegally as a short term rental. We've spent over \$100,000 of legal fees getting out of that and now we're opening Pandora's Box again. He'd like to vote yes tonight but he's going to vote no because we're not there yet. We're so close. We'll turn our backs on the rest of the work that needs to be done. The incentive to ignore us is monstrous because the penalty of getting caught is so much smaller than what they can make in rent for a week. Spending a lot of time on this doesn't mean that we're all the way there yet. We got started out very backwards on some of our affordable housing issues and we never escaped from that paradigm. Never make a rule that you can't enforce no matter how good it sounds. If we took a little more time we could get there. He sense it's going to pass tonight. He'd very much like to vote yes, but there's a little more homework to do. We're so close.

Councilor DiNunzio thanked the staff and community for input. The presentation and the material allowed him to follow the thinking and problem solving that staff went through to reach the conclusions. It was helpful for him to come to a decision and limited his questions. The issue of herding cats comes to mind. Trying to socially engineer something that crosses every T, he doesn't know if we'd ever get there. We have the affordable housing issue and this is one piece of the solution puzzle. If we take this step, if we have bumps in the road with administration or policy, we can address those. There isn't anything that will be cast in concrete. The issue is to get started and then manage it. He supports all the effort staff and the community put in. It's worthy of a chance.

Councilor Surber stated kind of being involved in the process, he's seen how it's evolved and he thanked the Housing Commission, P&Z and staff. Part of the process and how it evolved, it came down to when we looked at it as a guest house and it didn't change the land use requirements. All the design standards meet what we're already doing for a guest house. We took it a step forward by restricting the size of it, restricting the parking and the owner-occupied is a big component of enforcement. It's a way of keeping track of who's living there. It's a compromise. It's smart and sensible. We've heard all the reasons tonight why it is. The sunset clause of five years or 88 units is also good. The Housing Commission did a study two-three years ago and we came back with the number that our communities needed 3,500 units of affordable units. We took 5% of that and cut that number in half to get the 88 units. P&Z came up with good ideas as far as measuring it. We've come up with a good ordinance and he's in full support.

Councilor Scagnelli stated this is like Goldie Locks, now we have it just right. She complimented staff and community for staying with it and working so hard. We are ready to go forward. There are a lot of advantages to using ADUs as a means to address our affordable housing problem. It's been successful in so many communities and no one has rescinded their ordinances. No one has changed their minds. She was struck by a couple speakers who said their neighborhoods are empty. We know we have so many second homes now. Maybe this will bring people back into neighborhoods. We may see other advantages to this. She's going to vote in support of it.

Mayor Adams stated when he makes a decision he weighs the benefits and impacts. Some of the benefits of the ADU ordinance are 1.) It increases stock of affordable units; 2.) Utilizes existing stock; 3.) Doesn't use additional land; 4.) Preserves neighborhood character; 5.) Benefits homeowners; 6.) Renter benefits; 7.) Promotes balanced transportation; 8.) Expands the tax base. The rental inventory in Sedona makes up less than 4% while the state average is 20%. We don't have a way to make up for the affordable units we've lost and this does that. We need to bring the grandfathered units into compliance. Bring in a third party so they feel comfortable to come in and learn what it takes to come into compliance. He'd like Council to direct staff to pursue that. We've talked about stepping up inspection of units after they've been approved. What's a reasonable amount of time for a drive-by inspection to make sure they're in compliance? We might want to direct staff to make that an understanding.

Jim Windham stated we thought about quarterly reports to Council about our activity and enforcement with ADUS. Is that what you're looking for?

Councilor DiNunzio stated he thought the Mayor's concern wasn't in reporting but what steps would be taken to insure frequency of inspection and enforcement.

Jim Windham stated it's a fine balance. He'd like to talk to the City Manager and legal staff to make sure they don't be intrusive to law-abiding citizens. He'd like to get some direction on how often would they feel comfortable having enforcement staff go into neighborhoods.

John O'Brien stated say we get 10 a year, driving by every month and doing an observation wouldn't be a real burden on staff. But we can't be knocking on their door so he's not sure what it'd achieve.

Councilor Scagnelli stated she wouldn't want staff driving by her house once a month checking on her.

Vice Mayor Hamilton stated that's the kind of thing that volunteers could do. We have that type of thing in the police volunteer program. That's what trained volunteers could do if we need discreet outside monitoring. There are ways to get at this. He wishes we could explore more of these things. We're struggling after three hours of wading through this to put pieces in place.

Jim Windham stated he'd like to get a sense from the City Manager and Legal and provide some options back to Council for what type of enforcement Council wants him to pursue. He'd like to submit options.

Councilor Colquitt stated we better be careful we're not putting a tag on these people as being different. Why are we putting them in a box and treating them differently. That's a slippery slope to go down.

Councilor Scagnelli stated she has an ADU in her neighborhood. It's not a problem. She's not saying there won't be problems somewhere but to have staff drive by looking at these is making a mountain out of a mole hill.

Council supported the idea of having a third party be a place for people out of compliance to go to learn how to become legal.

***Motion: Councilor Surber moved to approve Resolution 2010-01 creating a public record setting forth proposed changes to the Sedona City Code and Sedona Land Development Code related to accessory dwelling units. Councilor Scagnelli seconded. Vote: Motion carried six (6) yes to one (1) no. (Vice Mayor Hamilton voted no.)***

Vice Mayor Hamilton stated even though he's skeptical he doesn't see increased noise or crime or parking becoming an issue. If he votes no it will be a friendly "no" just to give more time to get it done really right.

Mike Goimarac read Ordinance 2010-01 *AN ORDINANCE OF THE CITY OF SEDONA, ARIZONA, AMENDING THE SEDONA LAND DEVELOPMENT CODE (LDC) BY ADOPTING CHANGES TO ARTICLE 2 (DEFINITIONS), ARTICLE 6 (district regulations), and ARTICLE 9 (development standards); and AMENDING the sedona city code in article 8 (business regulations) and article 13 (wastewater), all to establish accessory dwelling units (ADU); PROVIDING THAT ALL ORDINANCES OR PARTS OF ORDINANCES OR ANY PART OF THE SEDONA CITY CODE OR SEDONA LAND DEVELOPMENT CODE (ldc) IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE SHALL BE REPEALED UPON THE EFFECTIVE DATE OF THIS ORDINANCE; and describing penalties thereto*

***Motion: Councilor Surber moved to approve Ordinance 2010-01 implementing proposed changes to the Sedona City Code and Sedona Land Development Code concerning accessory dwelling units. Councilor Scagnelli seconded. Vote: Motion carried seven (7) yes to zero (0) no.***

Vice Mayor Hamilton stated he's going to vote "yes" for the ordinance because the problem doesn't lay with the ordinance.

**Mayor Adams called a five minutes recess at 7:55 p.m.**

**Mayor Adams reconvened at 8:02 p.m.**

**9. Discussion/possible action on a resolution and ordinance to conduct sales tax audits.**

Tim Ernster stated Council held a retreat November 20 and there were a number of recommendations to Council and direction for staff to take steps to collect its sales tax. The Arizona Department of Revenue has quite a few fewer staff than it does from a few years ago. We're proposing Council adopt an ordinance and resolution which would give the City the authority to collect its own sales tax. Normally for every \$1 you spend on sales tax collection you see \$2 or \$3. Jodie Filardo is the staff person working on some of these sales tax initiatives.

Jodie Filardo stated staff has worked with Tom Belshe, the Deputy Director of League of Arizona Cities and Towns on pursuing self sales tax collections. It's been essential after the deep staff cuts at ADOR. Audit staff reductions at ADOR combined with declines in city sales tax revenues makes it the time for self collection. Forty-two (42) Arizona cities have this audit authority. Of the cities and towns in the Verde Valley, Camp Verde and Cottonwood have supplemental local authority. Cities can purchase audit services from outside firms. There is typically a flat fee per year related to population, data available and the number of audits desired. Fees for Bullhead City and Lake Havasu City were \$60,000 and \$50,000. One auditor suggested we can expect a minimum of 3 to 1 return for every dollar spent. Should you approve the recommended tax code changes, staff will pursue a process to implement self collection and give you a presentation later this spring.

*Mayor Adams took it to the public.*

Sandy Moriarty, Sedona, spoke in favor of the audits, saying there would be an added benefit of educating the business owners who would be collecting the appropriate taxes going forward. You would bring people into compliance and moving forward they would know what the law is. She hoped the City would be lenient in collecting back taxes, to be sure not to put someone out of business. That's not what we want. A lot of times people don't know better.

*Mayor Adams brought it back to Council.*

Councilor DiNunzio asked Mike if sales tax is a big term that includes bed tax?

Mike Goimarac stated he doesn't know if bed tax falls in that term. Alison Zelms stated it falls under a transaction privilege tax, like construction tax, mining tax, etc. If we had a tax on groceries that would be under there.

Councilor Scagnelli stated Sandy brought up a point about when we find people out of compliance. What would happen?

Jodie Filardo stated presuming you have a finding there are a couple different pieces to the finding. The first piece is interest the taxpayers owes the City. That is legislated at 5% total with a maximum not to exceed 25%. She's not familiar with all the ins and outs of it just yet. There's also a penalty piece of it. The interest we're required to assess them to pay. We're not required to make them pay the penalty. That's the area to be more lenient.

Councilor Scagnelli stated this is about going forward. She doesn't want to penalize people so much that we put them out of business so she's glad to hear there's flexibility. If there's interest to the City she assumes there must be interest to the State.

Tim Ernster stated if you have a taxpayer that owes the City, you can work with them. You can try to make it as painless as possible with waiving the penalties and working out a payment plan. There might be a taxpayer who's tried to avoid paying any sales tax and in that case you might want to charge them. We need to be flexible and work with the business community as much as possible, especially at first. The state does have payment plans as well.

Councilor Frey asked when was the last time the state audited someone? They haven't been doing this for years, it's not because they ran out of money.

Alison Zelms stated to give the State a little credit. They've done several audits in the City over the past years stemming from people who made complaints. In 2008-09 there were two or three audits.

Councilor Frey stated they have to follow up if there was a complaint. Alison stated they didn't come out on their own it was initiated by complaints.

Councilor DiNunzio stated he sees two issues with collection. An audit might disclose a business that under-collected. That's a civil issue. But what if the business is collecting sales tax and not forwarding it on. Does that become criminal? If it is criminal then we report to the state.

Tim Ernster stated he can't give a firm answer on that. There are situations when you audit and discover a business overpaid and then you give them a refund plus interest.

Vice Mayor Hamilton asked what it means if not all businesses support the audits?

Jodie Filardo stated it means that it may not be too popular with some of our businesses.

Vice Mayor Hamilton stated when he reads the ordinance he finds three staff positions. When we talk about the ratio of how much it costs to how much we get back in are those positions included in that cost?

Jodie stated they're three different kinds of people. They live in different places in our state. We don't need to have them be part of our staff here.

Vice Mayor Hamilton asked if the cost of those people is included.

***Motion: Councilor Scagnelli moved to approve Resolution No. 2010-02 creating a public record setting forth the proposed amendments to the City Tax Code for implementing local audit procedures. Councilor Frey seconded. Vote: Motion carried seven (7) yes to zero (0) no.***

Mike Goimarac read Ordinance 2010-02: *AN ORDINANCE OF THE CITY OF SEDONA, ARIZONA, ADOPTING "SUPPLEMENTARY LOCAL AUDIT PROCEDURES FOR THE CITY TAX CODE OF THE CITY OF SEDONA, ARIZONA" BY REFERENCE; ESTABLISHING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY AND PROVIDING PENALTIES FOR VIOLATIONS.*

***Motion: Councilor Scagnelli moved to approve Ordinance No. 2010-02 amending the City Tax Code by adding supplementary local audit procedures. Councilor Frey seconded. Vote: Motion carried seven (7) yes to zero (0) no.***

**10. Discussion/possible action on a resolution and ordinance modifying Article VI of the Employee Manual revising section 608, Vehicle Use Regulations, formalizing vehicle usage, sharing, maintenance, and related policies.**

Andi Welsh stated last spring all City staff conducted an audit of vehicles and auctioned off 11 vehicles. We're looking at auctioning off four more vehicles in February. We have a current

manual policy that's a page long. We looked at concerns coming forward as a result of the sharing, who was paying for gas and maintenance and this dresses those things. We're looking at addressing the personal use of City vehicles. We didn't have a policy on that before. When people leave town, they can't take the vehicle more than five miles from the conference or lodging. Previously most positions have a vehicle assigned to them and now we have a lot more sharing. We also addressed hands-free devices. We never had a policy addressing talking on the phone and driving the vehicles. This also addresses that if an employee receives a ticket they are responsible for that ticket.

*Mayor Adams opened it to the public and not seeing any brought it back to Council.*

Councilor DiNunzio stated he didn't read it thoroughly. Which department administers the policy?

Andi stated ultimately the City Manager has the authority to enact any disciplinary measure that may result.

Andi stated we have vehicles in Parks & Rec that have four wheels so we wanted to note that it doesn't apply to those pieces of equipment.

Mayor Adams asked how cleaning the cars are addressed?

Andi stated it depends on the department and the use of the vehicle. We have a contract with a local car washing company. We hope that the employees take it upon themselves.

Tim stated in section C, page 10-4, item 3 deals with the issue.

Mayor Adams stated he drove in the carwash with the T-shirt on with the city logo and they were going to clean my car. Do we need to make sure the vehicle has a City logo on it?

Andi stated we can look at that internally and maybe talk to the car wash about providing I.D. or something.

Mayor Adams asked if there's a reason we don't write down beginning and end mileage.

Andi stated we could add that.

Mayor Adams stated he had concerns that when you fuel the vehicle there's no mileage on that. Now on the receipt it requests your odometer so that helps.

Andi stated we can look into additional controls.

Councilor DiNunzio stated there isn't a trip ticket where a supervisor authorizes someone to take a vehicle. The trip ticket doesn't show the purpose of the trip and doesn't show start and end mileage. That might stop someone from running up 150 miles for personal business while they have the car out and you'd have documentation.

Mayor Adams stated if they put the beginning and end mileage on the check out sheet that'd control that. Can we include that in the policy?

Tim stated we can incorporate that into the form.

***Motion: Vice Mayor Hamilton moved to approve Resolution No. 2010-03 creating a public record setting forth proposed changes to Article VI of the Sedona Employee Manual regarding vehicle usage. Councilor DiNunzio seconded. Vote: Motion carried seven (7) yes to zero (0) no.***

Mike Goimarac read Ordinance No. 2010-03: *AN ORDINANCE OF THE CITY OF SEDONA ARIZONA AMENDING SECTION 608 OF THE SEDONA EMPLOYEE MANUAL (VEHICLE USE POLICY).*

***Motion: Councilor DiNunzio moved to approve Ordinance No. 2010-03 thereby amending Article VI of the Sedona Employee Manual regarding vehicle usage. Vice Mayor Hamilton seconded. Vote: Motion carried seven (7) yes to zero (0) no.***

- 11. Discussion/possible action on Council Assignments, including reviewing the workload these entail and likely redistribute some current assignments. Discussion may also include direction to staff concerning formulation of a policy related to parameters for representation and interaction on regional groups.**

Tim Ernster stated we had a few thoughts on this. The concern is when that person speaks at different groups, that they're representing the City. We thought we may want to touch base on that.

Alison Zelms stated this is a result of some discussion we had at a joint session to try to be proactive and improve our intergovernmental relations program. We have representation at a lot of regional groups. We have a couple of non-Council, non-staff representatives. It would be helpful for them to have parameters for them under which they operate. Would council like a representation only if Council's approved to send someone or can Council decide on their own to someone who's not a Council or staff member. Staff is trying to insure there's always a staff member who can go with the Council representative so we know what's going on with those groups.

*Mayor Adams opened it to the public.*

Anita MacFarlane, Sedona, encouraged Council to set policies, especially water policies, and to set parameters for representation and interaction on regional groups. It's important when those of us who aren't not of Council and are not staff and we're at a meeting, we need to know what you want us to do. If you adopt a policy on water that would be helpful so we know what the City's policy is and what you want us to do. If staff is the person that should be representing the City then we keep our mouths shut.

*Mayor Adams took it back to Council.*

Mayor Adams stated we could address that issue first. If someone other than a Council person is representing the City, that person would have to be approved by Council.

Alison stated that would resolve the issues. Then the people would know they are speaking on behalf of the city and everyone at the meeting would know if they have voting authority or not.



Councilor Surber stated he agrees with that direction. We do need to also come up with parameters for these people that represent us. He suggests staff look into that.

Alison Zelms stated if you're okay with a general parameter, staff can come up with a brief memo of what seems appropriate, then make sure Council is okay with it.

Vice Mayor Hamilton stated three of the five liaisons he has are regional. He's never felt that even as Council he had authority to go there and speak as the City. He was there to listen. Even someone who's not on Council would have further difficulty with that. He doesn't feel as a Council that he has authority to go to regional meetings and speak on behalf of the City. It's a bigger nut to crack than what we're thinking about now.

Councilor DiNunzio stated if staff could provide him with the latest information that this group is looking at it would bring him more up to speed. That falls in the same parameter. He wouldn't go out and speak for the City officially. But if he's there as a representative of the City and he makes a comment it is him speaking for Sedona in the minds of the other people. The more information they could provide would be helpful.

Alison stated staff could provide a list of staff contacts for the various organizations. We would try to have more regular updates of what's going on at the various agencies. If they expect you to say something, there are things you can say. We have some tips.

Mayor Adams stated if there's any obligation for City funding it needs to come back to Council. You're using your own discretion in terms of how you conduct yourself. If there's a question in your mind on whether it should come back to Council, you need to use your good judgment.

Councilor Scagnelli stated we have two community members that attend the water meetings. That should be formally approved by Council when that happens.

Mayor Adams stated we formally approved to send Brent Bitz to WAC.

Mayor Adams asked whether Council agreed with this direction for staff. There were no objections.

Councilor Frey asked Anita if Council ever had policy issues on water issues.

Anita MacFarlane stated there have no never been policies on water issues. Policies are important and we should know what they are. We should have policies for a lot of these things. But it's a very fine line.

Councilor Frey stated he knows we've had policies with a lot of these agencies in the past so whoever's representing knows where Council is coming from.

Mike Goimarac stated our rules and procedure address some of these issues. Maybe we could elaborate these rules to address the issue of non-Council representatives.

Councilor Colquitt stated perhaps we're not in that good of shape of knowing what our policies are. That might be something we need to look at because it's difficult to go to any of the regional

agencies unless you have a good education as to what it's all about. That would entail more then sending liaisons to different things. She'd hate to take a test right now on what the policy is on a lot of these. We don't want to do that tonight. But we might put that on a back burner and come up so we all know what policy is.

Mayor Adams stated we'll give that direction to staff.

Mayor Adams stated he needs to shed some of his hours and give Councilor Frey some assignments.

Councilor Frey agreed to be the Council liaison to the Planning and Zoning Commission, the Water Conservation Advisory Committee, the Yavapai County Water Advisory Committee, and the Northern Arizona Municipal Water Users Association. There were no objections.

Mayor Adams said Vice Mayor Hamilton would take over former Vice Mayor Bradshaw's obligations as back up to the Mayor for the Verde Valley Intergovernmental Mayor/Manager group and the Yavapai County Mayor/Manager group. He would also take over as one of the Board Members for the Sedona Wastewater Municipal Property Corporation. Vice Mayor Hamilton will be the liaison for the Coconino Plateau Water Advisory Committee, and he will be the backup for the Mayor for the League of Arizona Cities Resolution Committee. There were no objections.

Regarding the Middle Verde River Watershed Planning Group and the Coconino-Yavapai Resource Conservation and Development Council, consensus was reached to discontinue the City's involvement.

Mayor Adams said Vice Mayor Hamilton would be his backup for the Northern Arizona Council of Governments. There were no objections.

Councilor DiNunzio agreed to take over the liaison duties for the Public Safety Personnel Retirement Board, the Sedona Main Street Program, the Verde Valley Transportation Planning Organization, and the Historic Preservation Commission. He also agreed to take over as backup for the Mayor to the Greater Arizona Mayor's Association. There were no objections.

**12. Discussion/possible action on an ordinance clarifying prior Council action on changes to Article 7-6 of the City Code approving the adoption of the International Fuel Gas Code.**

Mike Goimarac stated we inadvertently deleted the fuel gas code and we want to put it back.

*Mayor Adams took it to the public, not seeing any, he brought it back to Council.*

Mike read Ordinance 2010-04: *AN ORDINANCE OF THE CITY OF SEDONA, ARIZONA, CLARIFYING AND AFFIRMING PRIOR COUNCIL ACTIONS RELATED TO THE ADOPTION OF AMENDMENTS TO ARTICLE 7-6 OF THE CITY CODE.*

***Motion: Councilor Colquitt moved to adopt Ordinance 2010-04, clarifying and affirming prior Council actions as to Article 7-6, International Fuel Gas Code. Councilor Surber seconded. Vote: Motion carried seven (7) yes to zero (0) no.***

**13. Discussion/possible action on future meeting/agenda items.**

Mayor Adams stated the next meeting will be January 26 at 4:30 p.m. We will have a special Council meeting on January 27 to discuss the wastewater rate study and the budget.

**14. Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:**

a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. §38-431.03(A)(3).

b. Discussion or consultation with legal counsel in order to consider its position and instruct its legal counsel regarding the City's position in the following pending or contemplated litigation or contracts that are the subject of negotiation, or settlement discussions in order to avoid or resolve litigation per A.R.S. §38-431.03(A)(4), specifically:

1) Sedona Grand L.L.C., v. City of Sedona, Yavapai County Superior Court Case No. 820080129.

Following any discussions in executive session of the above matters, the City reserves the right to discuss and/or act on any of the above listed legal matters in open session.

No executive session was held.

**15. Return to open session. Discussion/possible action on executive session items.**

No executive session was held.

**16. Adjournment: Mayor Adams called for adjournment at 9:08 p.m., without objection.**

**I certify that the above is a true and correct summary of the Regular City Council Work Meeting held on January 12, 2010.**

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Alison Carney, Recording Secretary

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Date